

### REMARKS

In response to the office action mailed October 16, 2007, Applicant submits this Amendment accompanied by a Request for Continued Examination (RCE).

By way of this Amendment, claims 1, 2, and 5 are currently amended. No new matter has been added.

Upon the electronic submission of this paper, the Office was authorized to charge the appropriate RCE fee to Deposit Account No. 13-2855. No fees are believed to be due for proper entry and consideration of this Amendment. Nevertheless, if the Office deems otherwise, kindly charge the cost thereof to Deposit Account No. 13-2855, Order No. 30051/39757.

In light of the foregoing amendments to the claims and the following remarks, Applicant respectfully submits that the present application is in condition for allowance.

### CLAIM REJECTIONS – 35 U.S.C. §112

Claim 5 stands rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the application. Specifically, the Office Action alleges that the term “current performance status” lacks antecedent basis. Claim 5 has been amended herein to delete the word “current.” Accordingly, the term “performance status” has proper antecedent basis in claim 1.

Applicant respectfully requests reconsideration and withdrawal of this rejection.

### CLAIM REJECTIONS – 35 U.S.C. §102

Claims 1-9 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by each of Annoni (U.S. Patent No. 5,650,186) and Knepler (U.S. Patent No. 5,111,969).

Independent claim 1 has been amended herein to recite a method of controlling a drink preparation machine comprising, in part, blocking the hot water withdrawal *for at least one predetermined drink unit* of the multiple number of different drink units and enabling the hot water withdrawal *for at least one predetermined drink unit* of the multiple number of different drink units at a predetermined partial performance status of the hot water source.

Applicant submits that neither Annoni nor Knepler disclose such features. Rather, Annoni and Knepler each merely disclose dispensers including an “enabled” status and a “disabled” status, with no partial status.

Annoni (U.S. Patent No. 5,650,186)

For example, Annoni describes a coin operated vending machine for brewing and dispensing a multiple number of different drink units on a hot water basis. The machine includes a primary water boiler which initially supplies hot water to a brewing block (secondary) boiler 92 (column 3, lines 12-14). The secondary boiler 92 is provided with a heating element, and is used to heat the brewing water to the desired brewing temperature immediately before starting a brewing procedure. In doing so, the predetermined amount of brewing water is pumped from the primary boiler to the brewing block boiler 92. (See column 4, lines 12-14).

The control system of the machine includes temperature sensors for checking the temperature of the coffee and ingredient brewing water prior to beginning any brewing cycle (column 5, lines 6-11). The control system only enables operation if the temperature is satisfactory.

The control system further receives coin acceptor and bill acceptor signals which are compared with signals received from selection buttons. If the signals match, the corresponding brewing and dispensing cycle is enabled (column 5, lines 11-16 and 54-57; column 7, lines 4-7 and 32-35; column 8, lines 18-23).

Accordingly, the machine disclosed by Annoni only includes an “enabled” mode, during which all beverages can be prepared and dispensed, and a “disabled” mode, during which no beverage can be prepared and dispensed. The “enabled” mode is only initiated when the temperature sensors detect a satisfactory temperature, and the coin and bill acceptor signals match those received from the selection buttons.

Annoni does not disclose a partial performance status, as recited in claim 1 of the present application, during which at least one drink unit is blocked and at least one drink unit is enabled.

Therefore, Annoni fails to anticipate amended claim 1. Moreover, Annoni fails to anticipate claims 2-9, because claims 2-9 are dependent on claim 1.

Knepler (U.S. Patent No. 5,111,969)

Knepler describes a dispenser allowing for the dispensing of two quantities (batches) of hot water. When the dispenser lacks a sufficient supply of hot water, the control system prevents dispensation (column 2, lines 32-37).

More specifically, a temperature sensor is used for controlling a heater and for producing a control or “ready” signal for respectively permitting or preventing operation of a dispensing control member (column 3, lines 46-51). Moreover, the hot water dispenser includes a ready lamp to indicate to an operator that dispensing may commence, i.e., that a sufficient quantity of hot water at the desired temperature is present in the reservoir to dispense a complete batch (column 4, lines 30-34). As shown in Fig. 4, the ready lamp does not differentiate between the two batches. Thus, similar to the device disclosed by Annoni described above, the dispenser disclosed by Knepler merely operates in two modes, i.e., “enabled” (or “ready”) and “disabled.”

Consequently, Knepler does not disclose a partial performance status, as recited in claim 1 of the present application, during which at least one drink unit is blocked and at least one drink unit is enabled.

Therefore, Knepler fails to anticipate amended claim 1. Moreover, Knepler fails to anticipate claims 2-9, because claims 2-9 are dependent on claim 1.

Reconsideration and withdrawal of the outstanding anticipation rejections is respectfully requested.

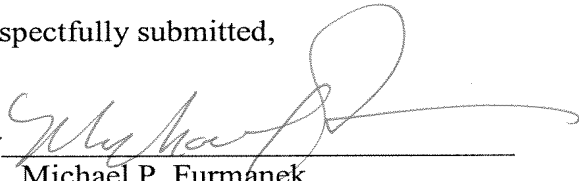
### CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If there is any remaining issue that the office believes may be remedied via telephone conference, Applicant invites the Examiner to contact the undersigned at (312) 474-6300.

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Respectfully submitted,

By



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